

REMARKS

In the Final Office Action¹, the Examiner:

1. rejected claims 38-41, 44-46, 48-51, 54-56, 58-61, 64-66 and 68-73 under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 6,987,945 to Corn et al. ("*Corn*") in view of U.S. Patent No. 5,907,831 to Lotvin et al. ("*Lotvin*"), and further in view of U.S. Patent Application Publication No. 2002/0177109 to Robinson et al. ("*Robinson*");
2. rejected claims 47, 57 and 67 under 35 U.S.C § 103(a) as being unpatentable over *Corn*, *Lotvin*, and *Robinson*, and further in view of U.S. Patent Application Publication No. 2002/0032790 to Linderman ("*Linderman*");

Claims 38-41, 44-51, 54-61 and 64-73 remain pending.

I. Rejections of claims 38-41, 44-46, 48-51, 54-58, 58-61, 64-66 and 68-73 under U.S.C. § 103(a)

Applicants respectfully traverse the rejection of claims 38-41, 44-46, 48-51, 54-56, 58-61, 64-66, and 68-73 under 35 U.S.C § 103(a) as being unpatentable over *Corn*, *Lotvin*, and *Robinson*.

The key to supporting any rejection under 35 U.S.C. § 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. *See* M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007). "[T]he framework for the objective analysis for determining obviousness under 35 U.S.C. § 103 is stated in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966). The factual inquiries...[include determining the scope and content of the prior art and]...[a]scertaining the differences between the claimed invention and the prior art." M.P.E.P. § 2141(II). In rejecting a claim, "Office personnel must explain why the difference(s) between the prior art and

¹ The Office Action may contain statements characterizing the related art, case law, and claims. Regardless of whether any such statements are specifically identified herein, Applicant declines to automatically subscribe to any statements in the Office Action.

the claimed invention would have been obvious to one of ordinary skill in the art.”

M.P.E.P. § 2141(III). In this application, a *prima facie* case of obviousness has not been established because the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the claimed combinations.

Independent claims 38 recites a method for providing access to an electronic course that is hosted by an external system, the method including:

transmitting, by the server, a track command to the external system for tracking the user activity through the at least one selected course. (Emphasis Added)

The Office Action correctly states that *Corn* does not teach or suggest a “server transmitting a track command to the external system for tracking the user activity with the course.” (Office Action at page 3).

To address this deficiency, the Office Action alleges that *Lotvin* “teaches a system to track a user’s progress with respect to a third-party content provider.” (Office Action at page 3). However, even if this allegation is correct, which Applicant does not concede, *Lotvin* does not teach “transmitting, by the server, a track command to the external system for tracking the user activity through the at least one selected course” as recited in claim 38. (Emphasis Added)

As mentioned in the Office Action, *Lotvin* teaches that the “number of earned points is transmitted...directly from the third party’s computer to the central system computer.” (col. 13, lines 29-31; Office Action at page 3). This passage teaches a transmission of a command from a third party system to a central system “on completion of the presentation.” (col. 13, lines 27-28). However, there is no teaching in

Lotvin of a server transmitting a track command from the server to an external system.

Therefore, *Lotvin* fails to teach “transmitting, by the server, a track command to the external system for tracking the user activity through the at least one selected course” as recited in claim 38.

Moreover, the Office Action has asserted that *Lotvin* “teaches an educational system that provides third-party content, wherein a user’s performance record on the third-party system is automatically transmitted to the server.” (Office Action at page 4). However, because the third-party system of *Lotvin* automatically transmits the user’s performance record to the server, the server never transmits a request for the user’s performance data to the third-party system. Therefore, *Lotvin* fails to teach “transmitting, by a server, a track command to the external system for tracking the user activity through the at least one selected course” as recited in claim 38.

Robinson fails to remedy the deficiencies of *Corn* and *Lotvin*. That is, *Robinson* also fails to teach or suggest at least “transmitting, by the server, a track command to the external system for tracking the user activity through the at least one selected course,” as recited in claim 38.

In view of the mischaracterization of the prior art as set forth above, the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the claimed invention. Moreover, the Office Action has not provided an explanation of how one of ordinary skill in the art would modify the prior art to achieve the claimed combinations. Therefore, no reason has been clearly articulated as to why the claim would have been obvious to one

of ordinary skill in view of the prior art and a *prima facie* case of obviousness has not been established.

Claim 38 is thus allowable. Independent claims 48, 58, and 68-70, while of different scope than claim 38, distinguish over *Corn*, *Lotvin*, and *Robinson* for reasons similar to claim 38 and are therefore also allowable.

Claims 39-41, 44-46, 49-51, 54-56, 59-61, 64-66, and 71-73 distinguish over *Corn*, *Lotvin*, and *Robinson* at least due to their dependence from one of the independent claims. Therefore, the Examiner should withdraw the rejection of claims 38-41, 44-46, 48-51, 54-56, 58-61, 64-66, and 68-73 under 35 U.S.C. § 103(a).

II. Rejections of claims 47, 57 and 67 under U.S.C. § 103(a)

Applicant respectfully traverses the rejection of claims 47, 57, and 67 under 35 U.S.C § 103(a) as being unpatentable over *Corn*, *Lotvin*, and *Robinson*, in view of *Linderman*.

As discussed above, *Corn*, *Lotvin*, and *Robinson* all fail to teach or suggest a method for providing access to an electronic course that is hosted by an external system comprising “transmitting, by the server, a track command to the external system for tracking the user activity through the at least one selected course,” as recited in independent claims 38, 48 and 58. The Examiner asserts that *Linderman* teaches an object-oriented communications system over the Internet which utilizes SOAP protocol. Even if this assertion is correct, which the Applicant does not concede, *Linderman* fails to compensate for the deficiencies of *Corn*, *Lotvin*, and *Robinson* discussed above. That is, *Linderman* also fails to teach or suggest at least “transmitting, by the server, a track command to the external system for tracking the user activity through the at least

one selected course," as recited in independent claims 38, 48 and 58, and included in claims 47, 57 and 67.

In view of the above, the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and the claimed invention. Moreover, the Office Action has not provided an explanation of how one of ordinary skill in the art would modify the prior art to achieve the claimed combinations. Therefore, no reason has been clearly articulated as to why the claim would have been obvious to one of ordinary skill in view of the prior art and a *prima facie* case of obviousness has not been established.

Claims 47, 57 and 67 are thus allowable at least due to their dependence from one of the independent claims. Therefore, the Examiner should withdraw the rejection of claims 47, 57 and 67 under 35 U.S.C. § 103(a).

CONCLUSION

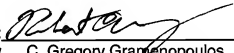
In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: March 4, 2011

By: 
C. Gregory Gramenopoulos
for Reg. No. 36,532
(202) 408-4000

#2313513

Robert E. Converse
Reg. No. 27,432